THE BANKRUPT LAW.

SPEECH

OF

THOMAS A. JENCKES,

OF RHODE ISLAND.

DELIVERED IN THE HOUSE OF REPRESENTATIVES,

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Mr. SPALDING demanded the regular order of business.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports, beginning with the select committee on a bankrupt law.

Mr. JENCKES, from the said select committee, reported back, without amendment and with the recommendation that it do pass, bill of the House No. 424, to establish a uniform system of bankruptcy throughout the United States.

Mr. JENCKES then addressed the House, as follows:

MR. SPEAKER: I take pleasure in introducing into this House a subject for its action which is entirely unconnected with political or partisan questions. It relates solely and entirely to the business and men of business of the nation. Its consideration at the present time is demanded by every active business interest. It is a subject which we can discuss without acrimony, and differ upon without anger. If a division is had upon it, the lines will not be those of party. It is a green spot amid the arid wastes of party strife, and one to which the fiery scourge of civil war has not yet extended. It presents unusual claims upon us at the present time, when all the business interests of the country are in a state of constant agitation. The life of the nation is in the prosperity and energy of its active men. While they are encouraged, and their rights and interests protected by just legislation, their efforts will continue and the nation will endure.

Mr. Speaker, this measure is called for by the direct language of the Constitution:

"Congress shall have power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States."

The Constitution also precludes the States from legislating upon the subject, by depriving them of the power of passing laws impairing the obligation of contracts. The grant of the power implies its exercise as a duty. The power granted in the first clause of the sentence has been exercised since the early days of the Constitution, uniformly, constantly, and the laws enacted in pursuance of it are still in force. The power which is now invoked has been exercised intermittently, at long intervals, to meet special emergencies in the business of the country, and the laws enacted under it have been repealed before they have formed even the basis of a system of legislation.

What is now proposed is the enactment of a law with a different purpose from the ephemeral laws which have preceded it, and which shall form the basis of a permanent and uniform system of legislation and jurisprudence on the subject of bankruptcies throughout the country. We desire that henceforth there shall be no longer upon this subject one law in Maine and another law in Wisconsin, a third in California and a fourth in Kentucky, and so on throughout all the States, but one law for all, which the citizens of the United States, inhabiting each and all the States, may acknowledge, live under, and enjoy, and feel it to be as stable as the Constitution upon which it stands.

All that we can now propose is the basis of such a system. A nation like ours can hardly find precedents, and must seek out rules and make laws for itself. The experience of other States and nations must be carefully explored, and their systems and the tendencies of their systems fairly studied, before their laws and jurisprudence can be copied and adopted into ours. The fact that all the attempts to frame a system which should meet the requirements of the Constitution have been failures, have made your committee most careful in consideration of this subject, and to explore into and seek out the principles upon which a permanent system should rest. We have not sought to avoid the rocks upon which other navigators have been wrecked, but rather to find and make them the basis of the structure which we wish to rear. The principles of the laws of trade and commerce are like the light-houses and beacons which guide the mariner upon the seas, and these principles we ask to be held up before all who adventure upon the perilous ocean of business.

It has been shown by actual count that more than nine

tenths of those who enter upon commercial life fail during their early career. How beneficent, how wise, how necessary is it, therefore, to enact laws which shall be their guide from such disaster, or to save them from the ruin which it brings. Every commercial country has such legislation. There is none that can be found without laws upon this subject since the system of bankruptcy was introduced into the jurisprudence of the Roman empire and made universal by the Christian emperors. No country of the Latin race has been without it. The Teutonic nations have adopted it, and in England it has been the law for nearly three centuries.

The framers of our Constitution deemed the passage of such a law a matter of course. They foresaw the great field which American citizens would occupy in the business of the world; and, in the same clause of that great instrument, they provided both for welcoming the industrial and commercial adventurers from other countries, and also gave power to make provision for the casualties that might arise from the spirit of adventure which must ever govern those who would develop the resources of a new and great country.

The wise foresight of our fathers has been overlooked, forgotten, or willfully ignored. Now, in the midst of civil war, when all the business interests of the nation are afloat upon a sea of uncertainty; when the States have found that their imperfect legislation on the subject of insolvency has become, under the prohibitory clause of the Constitution, of little use to the citizens of the United States, we are called upon to carry into effect this great unexecuted provision of the Constitution.

The bill before you is intended to be a thoroughly practical one. It contains no theories; it anticipates no undiscovered emergencies. It deals with the fact called bankruptcy. Every one knows what that is. It is insolvency beyond the reasonable chance of recovery. The signs and proofs of it are well known. The first principle of all such systems of laws is, that when that fact occurs, the administration of the bankrupt's effects belongs to his creditors and not to himself. Coupled with this is also the merciful provision, that if the insolvent surrenders all his property for such administration, and shows that he has been honest and faithful in conducting his affairs, he should be discharged from the obligations which by accident or misfortune he has not been able to perform.

If hopeless insolvency be commercial death, then the

bankrupt laws open to the honest bankrupt freedom from his debts, and the road to a new commercial life.

In this country there neither is nor can be any privileged class who should enjoy the benefit of such a system of laws. All are liable to insolvency, and all are equally entitled to relief. If time permitted it would be interesting to give the history of the English bankrupt laws, which were originally confined to traders, and which have been gradually enlarged to include all persons, like the one which we now report.

The tests of this insolvency beyond reasonable hope are of two classes:

First. The bankrupt's own admission of it.

Second. The proof of the facts, which are the best evidence of the insolvent's hopeless condition, and which are conclusive of it, unless explained by equally satisfactory evidence.

The bill therefore contains provisions both for voluntary and involuntary bankruptcy.

In the course of true, healthy, honest business, the person who finds himself in a condition of hopeless insolvency, whatever may be his occupation, should at once call his creditors together and submit to them what he should do for their mutual interest, and both creditors and debtor should unite upon some plan which will secure the rights of each and all. But, unfortunately under the common law, and under that law as controlled and regulated by the laws of the several States, such a notification from the debtor would only prompt the creditor whose claim was soonest due, to seek the privilege which legal proceedings for the collection of his debt would give him, and the debtor would either be deprived of his property by process of law, or deprive himself of it by assignment in favor of some of his creditors to the entire exclusion of others. Those who receive nothing will give the debtor no discharge, and the law as it stands in nearly all the States, makes the debtor upon the verge of insolvency, and his creditors, common enemies, with such melancholy results as we see all over the land.

The bill now presented is believed to be the first attempt in this country to bring the failing debtor and his creditors upon a ground of negotiation and settlement equally beneficial to each.

The bankrupt act of 1800 was for the benefit of creditors only. It was a careful digest of the English statutes of bankruptcy to that date, without any study as to their adaptation to the exigencies of business in this country. Any lawyer or man of business, by even a cursory examination of its provisions, can see the cause of its failure.

The bankrupt act of 1841 was substantially for the benefit of debtors only. It was reported originally as a purely voluntary system. In the course of discussion certain amendments were ingrafted upon it, which seemed to favor creditors, but which were soon found out to be almost entirely illusory. This objection to the law was well taken in the debate before its enactment, and was one of the causes, if not the main cause, which induced its sudden repeal.

The points aimed to be secured by the bill now reported are:

First. The discharge of the honest debtor upon the surrender of his property.

Second. The protection of the creditor against the fraudulent practices and reckless conduct of his debtor.

I presume the first question that every one will ask, for it is the question which has caused the greatest difficulty to the committee, will be, how can this be done with the present judicial system of the United States without great and inordinate delay and expense? The failing of the former laws was in a great degree owing to the inefficient and cumbrous machinery by which they were attempted to be carried into effect, and to the want of uniformity in the proceedings and practice. The answer to this question will be found in the first twelve sections of this bill. The district courts are made courts of bankruptcy. All initial proceedings must be had in them. If the judge cannot dispose of the cases in a reasonable time, he may have an assistant. But experience has shown that nine tenths of the business in courts of bankruptcy and insolvency is of a mere formal character. Heretofore this class of business has wasted the time of the courts, and no substantial benefit has been obtained by the appointment of commissioners, who exercised an undefined and in a great degree an irresponsible jurisdiction. Appeals from their decisions filled the courts. This system wasted the time of the courts, the funds of the bankrupt's estate, and brought the system into disrepute.

The committee have proposed to remedy the faults of the

old system by the creation of a class of officers called registers. They are authorized to transact all the business of the court when there is no opposing interest. If they find an opposing interest in any case, they are authorized to state the question in writing and certify it into the court for the decision of the judge. They are the hands and the eyes of the court, but are not clothed with its power or its discretion. They are to be paid a liberal salary out of a fund to be collected by fees, and their interest as well as their duty is to discourage litigation.

The first idea of such officers originated in Massachusetts, and was incorporated into their insolvent law. It was copied thence into the bankrupt law of England of 1861. The committee have adopted and modified it to make it applicable to the wants of this country, which are far beyond those of any individual State, like Massachusetts, or England.

The uniformity of proceedings and practice under the law are secured by a provision for general rules which shall be applicable to all the judicial districts. Under the bankrupt law of 1841, every district judge was authorized to make rules for the practice in his court. Each of them exercised this power. The consequence was, that instead of the country's having a uniform system of bankruptcy there were as many systems of practice as there were districts.

The uniformity of practice under the proposed bill will be secured by a code of rules to be established by commismissioners appointed by the Supreme Court. Before such rules take effect they must have the sanction of one of the judges of that tribunal. It is impossible to make provisions in any statute for all the details of proceedings and practice in the courts, and it is essential that uniformity should be secured in all the courts of the United States. It seemed best to the committee that all such rules should be framed and carried into effect under the highest judicial sanction.

The committee have adopted the system of creditors' assignees, and have rejected all the cumbrous machinery of official assignees, accountants, registries of courts, and accountant-generals. Insolvency is a matter between the bankrupt and his creditors, and can best be managed by them under the direction of the courts.

In the respects just named this bill differs from former laws. Every question raised by litigants contesting the bankrupt's discharge must be heard and decided by a responsible judge in open court, upon an issue made up by the parties, or stated by one of the registers of the court. It

may be taken for granted that no question will there be raised, which is not one which ought to be thus heard and decided. The interest of the parties would be opposed to delay, or to the presentation of frivolous questions.

The mode of proceeding in voluntary bankruptcy will be found in the thirteenth section. As a bankrupt law necessarily suspends all local laws, the committee have thought it best to make the provisions of this section as broad and liberal as any that can be found in the insolvent laws of the States.

The powers, duties, obligations of assignees will be found in sections fourteen to twenty-one, inclusive. It is sufficient to state that such assignees are at all times under the control of the creditors and of the court.

The proof of debts, the protection of the fund, the rejection of ficticious debts and of fraudulent claims, the examination of the bankrupt, the distribution of the estate, the limitations of preferences, and the requisites to procure a discharge are also provided for, and will be found within sections twenty-two and forty-eight.

The limitations upon the discharge will be found in sections thirty-six and thirty-seven. No enemy of the country can receive the benefit of this law.

In sections thirty-eight and forty-eight will be found two important provisions. One is an allowance to the bankrupt out of the fund, if he is an honest debtor, so that he may not be turned adrift upon the world without a dime if he has honestly surrendered his effects for administration, and distribution among his creditors.

The other gives him an opportunity of meeting his creditors, and if they are satisfied of his integrity and ability, to permit them to wind up his affairs under a trust deed with the same effect as if the proceedings had been conducted throughout in the court of bankruptcy.

Here the debtor and his creditors meet upon the common ground of obligation and duty which underlies all these systems, and this provision compels obedience to the dictate of duty.

There are creditors who systematically refuse a discharge; men who profess to be Christians with Shylock's principles. I have met many of them, and I presume many of us have. It is to prevent the tyranny of such creditors that laws like this should be passed.

Consider the effect of this conduct upon those who have met with misfortune in business. If they have dealt with

one of these Shylocks they have no hope of relief. All the other creditors may be willing to receive the proffered dividend if satisfied of its fairness, but none desire that one shall have an advantage over the rest. The consequence is that the debtor continues to secrete and hold his property, to cover it up by the ingenious network of fraudulent contrivances and conveyances which no court, in the absence of a bankrupt law, and in the faces of the strong swearing of the debtor and his friends, has ever been able to break through. The debtor hides himself behind all sorts of subterfuges. He loses all sense of mercantile honor; he borrows the name of some irresponsible person, behind which he may use his secreted capital; he advertises himself as agent for his father, son, or, in some States, even of his wife. All these false principals stand ready to help him by positive testimony, and the debtor commences and carries on a career of fraud from which there is no honorable escape.

Or if he possesses integrity and ability, those very qualities are a disadvantage in any attempt to procure a discharge. The creditor says to him, "Some day you will recover yourself, or your friends will set you up in business, and then I can secure my debt." The qualifications for success are thus made to increase the penalties and sufferings of misfortune.

The proposed system establishes a sound basis of business and regulates credits. The reason is obvious. This law will underlie all the local laws governing the relations of debtor and creditor, and all will know the terms upon which they deal with each other. When it shall be understood that there can be no preferences upon the eve of failure, no secretion or abstraction of property for the benefit of the debtor's friends or relatives, no transfers which cannot be inquired into, no settlements by an insolvent upon his wife or children which cannot be reached and declared void through the courts of bankruptcy, and when, at the same time, it shall be understood that the debtor who finds himself in failing circumstances, and comes forward and meets his creditors, and shows that he is entitled to his discharge and can procure it by a surrender of his effects, I venture to assert that fraudulent bankruptcies will be as few in this country as they are in other countries, under wiser and better commercial systems. Indeed I believe much fewer; for I have a strong belief in the wisdom and honesty of the American people.

Under this system of voluntary bankruptcy and of composition deeds, I believe that after a reasonable time proceedings in involuntary bankruptcy will be rare, except in cases of attempted fraud. But it will be perceived by reading sections forty to forty-seven that such proceedings are provided for, and that they are complete and thorough. They meet and obviate every objection which was raised to the bankrupt act of 1841 by its opponents.

The bill includes corporations. It has a complete system of involuntary proceedings, and provides for composition settlements. It is of unquestionable constitutionality. These were the grounds which gave the opposition to the law of 1841 a partizan character, and they no longer exist.

There is now no good reason why corporations should not be included under a general bankrupt law. They are subject to bankruptcies, and State laws must be enacted for their relief. Why should these artificial persons have a privilege different from natural persons? Whenever there is a personal liability for the debts of the corporation, we may be sure the stockholders will not claim such privileges either for the corporation or for themselves.

This bill is also self-sustaining, and may become a source of revenue.

(See the sections fifty-four and fifty-five, which provide for fees and stamps.)

It may be objected to this bill that it is retroactive or retrospective. I deny this proposition. I maintain that it is not retroactive or even retrospective. It is applicable to the business of the country as it is, and to the men of business in their present actual condition.

With regard to proceedings in involuntary bankruptcy, there can be no question. No person can be proceeded against except for causes happening or continuing after the approval of this bill. Acts of bankruptcy are facts, and such facts or events happening after this bill shall become a law, can alone become the basis of involuntary proceedings. These facts must be proved, as required in the bill, before any warrant can issue for the seizure of the bankrupt's effects. But with regard to voluntary proceedings, the filing of the petition is declared to be an act of bankruptcy. Before the petitioner can entitle himself to a discharge, he must bring himself by competent evidence within the provisions of the bill. His debts have accrued. His property may have been applied honestly under State laws to the

payment of his debts. He may now have no assets. He may be indebted to the assistance of his friends for the means of applying for the benefit of the law. The debts which he has long owed, without means of payment, may be discharged in these proceedings.

But in what sense is this bill retroactive or even retrospective upon such obligations? The bill applies to the present fact. A person in the position described could not be proceeded against under this bill, because he is not capable of committing an act of bankruptcy. He has not been capable of doing so since he parted with or was deprived of his property. The only mode in which he can commit an act of bankruptcy under this bill is to file his petition for relief. That petition applies to his present condition. He thereby becomes a bankrupt, subject to the provisions of this bill, and must in all respects comply with its provisions before he can receive his discharge. If a bankrupt law like this had been passed immediately upon the adoption of the Constitution, it would have operated on the then state of business in the country, and would have been retroactive and retrospective in the sense complained of, in every case of voluntary application, in the same manner as proposed in the present bill. Every case of voluntary or involuntary application hereafter, for many years, must operate upon debts incurred before the passage of this bill.

Such proceedings in no sense impair the obligation of contracts. No contract has been entered into since the adoption of the Constitution which has not been subject to be discharged by the operation of a bankrupt law which Congress might pass at any time.

Why should the present state of things continue? Of what advantage can it be to creditors or to the country that so many tens of thousands of the active men of this nation should be held in thraldom? They bear upon their limbs no visible chains; they have no masters who will yield them food for their toil, yet they are in the power of those who may sweep off their earnings at any time, and who in some States may incarcerate their persons in prison.

Although this actual imprisonment of the person has been abolished, except for temporary purposes, in most of the States, yet in all there still exists that life-long incarceration more terrible to the honest and sensitive mind than the other, in the chain net-work of insoluble debt. For crimes, the term of imprisonment is limited by law, the bolts of the jail or the penitentiary are driven and unloosed, and the

penalty is paid. But for debt, there is no release in life. The Roman law of the twelve tables, *de corpore debitoris in partes secando*, by which the relentless creditor could obtain a dividend of his debtor's body, if not of his effects, passed away with that code, and in the latter days of that republic was made to yield to the Julian law, which is the oldest system of bankruptcy in the world, and which on the triumph of Christianity was made a portion of the permanent system of jurisprudence of the Roman empire.

The laws formerly in force by which the creditor could keep his debtor in prison for an indefinite period, without relief, have been abolished in all Christian countries. But there may be a punishment of death without the knife, and an imprisonment without the bolts and bars of the jail. When in this country one enters the gates of hopeless insolvency, all his life must be passed within the imprisonment of mercantile dishonor, the pain of uncancelled obligations, the surveillance of creditors, and there is no release except by death. Who enters here may thereafter write over such habitation as he may have during the remnant of his life, the motto that the poet found inscribed over the gates of hell:

"Who enters here abandons hope."

To him, thenceforth—

"Hope cometh not that comes to all."

Whatever may be his talents, whatever his skill the result of long business experience, whatever his opportunity, whatever his integrity and character, so long as creditors stand unwilling to release him, his life is one continuous thraldom, without the power of relief by his own exertions, and beyond the aid of his friends. Why should this be, and for what good? To what end? Do the public gain by it? Do the creditors? No one can answer in the affirmative.

How many thousands and tens of thousands now stand waiting the action of this Congress for the relief which is due to them! Never was there an occasion when the passage of a law like that now reported was so necessary, nor the demand for it so urgent. Thousands were wrecked in the panic of 1857 who have never yet regained a firm foothold in any business. Thousands more were stranded in the repudiation of southern debtors in 1860, ruined beyond retrievement. Many of these were old men, who saw large fortunes swept away from beneath their feet, and found

themselves amid the quicksands of hopeless insolvency ere they could make a trial balance of their books. Many of these we know, aged men, and see verified in them the description of the caprice of fortune:

> "It is still her use
> To let the wretched man outlive his wealth,
> To view with hollow eye and wrinkled front
> An age of poverty."

And many of more vigorous years, the young members of ancient houses, are borne down by a weight of debt beyond their strength, condemned throughout their lives to eat the bitter bread of penury, and, unless we intervene, without hope. What to them are the guarantees of the Constitution? Why should they love the Government and yield it a hearty allegiance? Many, indeed, have gone forth to the war for its support, to lay their bones upon battle-fields, or to return to a life-long servitude and degradation. The fault is here and not with them or with the Constitution if they owe it slack allegiance. It is the Congress which has not performed its duty. Upon this subject the Constitution is as it should be. Thank God, Mr. Speaker, it needs no amendment to declare this emancipation. It rests with Congress alone to say whether more than a hundred thousand of the most intelligent, most active, and most patriotic men of the country should have the opportunity of liberating themselves from their bondage of debt, and walk free in the exercise of those rights which the immortal Declaration declares inalienable.

The power to make this declaration of freedom stands written upon the face of the Constitution. With the cry of these hundred thousand in our ears, and of the thousands more dependent upon them for subsistence; with the present state of the nation before us, in which no one is so blind as not to see that when the ebb-tide of this factitious paper money prosperity comes, as come it must, the shores of the great seas of trade will be strewn with more wrecks than ever yet were seen in any panic or revulsion, does it not become the duty of this Congress to acknowledge its constitutional obligation, and exercise its power to remedy and anticipate these evils? How can we be excused for the non-performance of this plain duty?

Let no one say in excuse that the portion of the country he represents is agricultural and not commercial. Every section of the country is commercial. Do not the agricul-

tural districts sell their surplus products? Do they not buy their needed supplies from the seaboard? Is not this commerce? All parts of this country, not now in arms against the constitutional Government, are so connected, interlaced, and interwoven with each other, that the prosperity of one part is the prosperity of all, and the neglect or injury of one part is to the injury of all.

Let us, then, by this beneficent measure unite in placing all upon a just equality, and, by the performance of the constitutional obligation, bind all sections more firmly together, make greater uniformity in these laws, and add to the resources of the country the labor and skill of thousands who now stand waiting in grief and without hope except from us, and take away from the hundreds of thousands who are now engaged in active business the fear that by the chances of war, the revulsions of business, or the senseless panics among speculators, they may become no longer of use to themselves or of service to their country. Let it be the honor of this Congress to lay aside for a day its party strife and fierce contentions, and, meeting on a common ground of mercy to the unfortunate and justice to the active business men of the nation, pass with unanimity a measure so fraught with beneficence to all, and for which they will receive the blessings of thousands. It is a measure of unquestionable good; it is demanded by the people; and it is authorized and required by the Constitution. Let it then become a law.

After disposing of a privileged question, the following action was had upon the bill and report:

The SPEAKER. The question is, "Shall the bill be engrossed and read a third time now?"

Mr. SPALDING. I wish, by the permission of the House, to say that the committee desires to challenge a critical examination of that bill, and therefore they propose to continue its consideration in the morning hour for discussion, and if there is no member now ready to go on, I hope the subject will be passed over until to-morrow.

Mr. FARNSWORTH. I hope this bill will be disposed of as soon as possible, and be taken out of the way, so that other committees may have an opportunity to report.

Mr. HOLMAN. I desire to enter a motion to postpone the bill until the second Tuesday in December next.

The SPEAKER. That motion is in order.

Mr. FARNSWORTH. I hope that will not be done. If no other gentleman desires to speak, let us pass the bill now. It has been printed for a long time, and members have had an opportunity of examining it.

Mr. FERNANDO WOOD. I hope the motion of the gentlemen from Indiana will not carry. This is an important bill, and ought to be passed at this session.

Mr. SPALDING. I will ask for a vote upon the engrossment of the bill now.

The SPEAKER. The vote must be first taken on the motion to postpone.

Mr. SPALDING. Well, sir, I demand the previous question on the motion to postpone.

The SPEAKER. The Chair will state that the previous question, if ordered, will extend only to the motion to postpone.

Mr. SPALDING. Very well; I ask the previous question on that.

The previous question was seconded, and the main question ordered to be put.

On the motion to postpone there were—ayes 42, noes 63.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 74; as follows:

YEAS—Messrs. James C. Allen, Allison, Ancona, Baxter, Blaine, Jacob B. Blair, Boyd, Cravens, Creswell, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Finck, Grider, Hale, Hall, Harding, Harrington, Charles M. Harris, Holman, Hutchins, Philip Johnson, Kalbfleish, Kernan, Knapp, Law, Lazear, Littlejohn, Loan, Mallory, Marcy, McClurg, McDowell, Morrill, Morrison, Amos Myers, Leonard Myers, Noble, Charles O'Neil, Orth, Patterson, Pendleton, Perham, Price, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Wadsworth, Whaley, Wheeler, Chilton A. White, and Wilson—63.

NAYS—Messrs. Alley, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blow, Brooks, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Cobb, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Donnelly, Driggs, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Gooch, Grinnell, Griswold, Herrick, Highty, Hooper, Asahel W. Hubbard, Hulburd, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Le Blond, Long, Marvin, McAllister, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Nelson, Odell, Pike, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Scofield, Shannon, Sloan, Spalding, Stevens, Sweat, Thayer, Thomas, Upson, Van Valkenburgh, Ward, William B. Washburn, Williams, Wilder, Windom, Winfield, Fernando Wood, and Woodbridge—74.

So the motion to postpone was disagreed to.